

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

KIRK D. ROBINSON,

Plaintiff,

vs.

IRS EMPLOYEES, Names Not Known, Refer to
Document #1, Individual capacity,

Defendant.

8:23CV486

MEMORANDUM AND ORDER

This matter is before the Court on Plaintiff's Motion for Leave to Proceed in Forma Pauperis ("IFP") filed on November 2, 2023. [Filing 2](#). Though the Court has not ruled on Plaintiff's IFP Motion, Plaintiff submitted the \$350.00 filing fee payment to the Clerk of the Court on January 31, 2024.

Plaintiff's IFP motion does not comply with the terms of [28 U.S.C. § 1915](#), the statute authorizing proceedings in forma pauperis. *See 28 U.S.C. § 1915(a)(1)* (requiring the plaintiff to submit "an affidavit that includes a statement of all assets such prisoner possesses that the person is unable to pay such fees or give security therefor"). However, on December 20, 2023, Plaintiff submitted an IFP motion that complies with [28 U.S.C. § 1915](#) in another case he filed that is currently pending before the undersigned, which the Court granted. [Filings 8 & 9](#), Case No. 8:23CV535. The Court takes judicial notice of Plaintiff's IFP motion in Case No. 8:23CV535¹ and, upon consideration, will grant Plaintiff leave to proceed IFP in the present matter.

Prisoner plaintiffs are required to pay the full amount of the Court's \$350.00 filing fee by making monthly payments to the Court, even if the prisoner is proceeding IFP. [28 U.S.C. §](#)

¹ The Court can sua sponte take judicial notice of its own records and files, and facts which are part of its public records. *United States v. Jackson*, 640 F.2d 614, 617 (8th Cir. 1981). Judicial notice is particularly applicable to the Court's own records of prior litigation closely related to the case before it. *Id.*

1915(b). The Prison Litigation Reform Act (“PLRA”) “makes prisoners responsible for their filing fees the moment the prisoner brings a civil action or files an appeal.” *In re Tyler*, 110 F.3d 528, 529–30 (8th Cir. 1997); *Jackson v. N.P. Dodge Realty Co.*, 173 F. Supp. 2d 951 (D. Neb. 2001). Thus, a prisoner does not avoid paying the Court’s \$350.00 filing fee by proceeding IFP, but rather is merely permitted to pay the filing fee in installments pursuant to the formula in 28 U.S.C. § 1915(b).

Here, Plaintiff paid the \$350.00 filing fee on January 31, 2024. In accordance with the PLRA, Plaintiff is granted leave to proceed IFP in the present case, and he has satisfied his obligation to pay the full amount of the Court’s \$350.00 filing fee.

IT IS THEREFORE ORDERED that:

1. Plaintiff’s Motion for Leave to Proceed IFP, [Filing 2](#), is granted.
2. Plaintiff has paid the full amount of the Court’s \$350.00 filing fee and no further filing fee payments are due.
3. Plaintiff is advised that the next step in Plaintiff’s case will be for the Court to conduct an initial review of Plaintiff’s claims to determine whether summary dismissal is appropriate under 28 U.S.C. § 1915(e)(2). The Court will conduct this initial review in its normal course of business and address Plaintiff’s other pending motion at that time.

Dated this 1st day of February, 2024.

BY THE COURT:



Brian C. Buescher
United States District Judge